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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 DAVID L. BATES, ) Case No. CV 08-6275-DDP (PJW)  
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12 ) Petitioner, )  
13 ) ORDER DISMISSING SECOND AND  
14 ) v. ) SUCCESSIVE HABEAS CORPUS PETITION  
15 )  
16 ) MICHAEL A SMELOSKY, )  
17 )  
18 ) Respondent. )  
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16 Before the Court is a petition for writ of habeas corpus in which  
17 Petitioner seeks to challenge a 2002 state conviction for possession  
18 of a firearm by a convicted felon and carrying a loaded and  
19 unregistered firearm on his person. This is Petitioner's second  
20 attempt to challenge this conviction. In 2005, Petitioner filed a  
21 habeas petition challenging this conviction, which was denied on its  
22 merits. See *Bates v. Campbell*, CV No. 05-602-DDP (Mc), December 2005  
23 Order Adopting Report and Recommendation. The Ninth Circuit Court of  
24 Appeals later denied Petitioner's request for a certificate of  
25 appealability. See *Bates v. Campbell*, CCA No. 06-55650, March 27,  
26 2007 Order.

27 Because Petitioner has already brought a habeas petition  
28 challenging this same 2002 conviction, the current Petition is subject

1 to dismissal as being second and successive. See 28 U.S.C. § 2244.  
2 Absent an order from the appellate court, this Court does not have  
3 jurisdiction to entertain a second or successive petition. See 28  
4 U.S.C. § 2244(b)(3)(A). For this reason, the Petition is dismissed.

5 IT IS SO ORDERED.

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7 DATED: February 24, 2009.

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11 DEAN D. PREGERSON  
UNITED STATES DISTRICT JUDGE

12 Presented by:

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15 PATRICK J. WALSH  
16 UNITED STATES MAGISTRATE JUDGE  
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